

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:	§	BANKRUPTCY CASE NO.
	§	
IFS FINANCIAL COPORATION, ET AL.	§	02-39553-H1-7
	§	
DEBTOR	§	Chapter 7

**AMENDED OPPOSITION TO MOTION FOR AUTHORITY TO COMPROMISE
BETWEEN TRUSTEE AND GIANLUIGI SOCCHI, RODOLFO REISER
GIORGIO MARI AND JOHN BRUNO JACUZZI RAINIERI**

THE HEARING ON THIS MOTION TO COMPROMISE CONTROVERSY IS SET FOR November 7, 2005, at 10:00 A.M. BEFORE THE HONORABLE UNITED STATES BANKRUPCY JUDGE MARVIN ISGUR, IN COURTROOM 10B, 515 RUSK AVENUE, HOUSTON, TEXAS 77002.

COMES NOW ENRIQUE PIMIENTA, an interested party, and files this Opposition Motion to Compromise Controversy, and in support thereof would show the Court the following:

There is a lawsuit pending before Enrique Pimienta by the Socchi Plaintiffs under Cause No. 02-04-02508-CV styled Socchi, Reisser, Mari, and Vernon Overseas Holdings against Enrique Pimienta, in the 9th Judicial District Court of Montgomery County, Texas. The Plaintiffs' counsel filed a motion to lift stay to proceed against Mr. Pimienta in that state court action, but Judge Karen Brown denied the motion. In that case, Plaintiffs' counsel sought and obtained a prejudgment writ of attachment against Enrique Pimienta for among other assets of Mr. Pimienta, a total of two truck loads of the images of the Lady of Guadalupe. Plaintiffs subsequently seized those images through that writ of attachment against Mr. Pimienta.

At the same time, Plaintiffs sued Amper International, Ltd., Orbost, Ltd. and Southsea Corporation under Case No. 03-08-06097-CV, in the 9th Judicial District Court of Montgomery County, Texas.

After obtaining a default judgment against Amper International, Ltd., Orbost, Ltd. and Southsea Corporation in Case No. 03-08-06097-CV, and the turnover Order dated November 19th, 2003 on the Amper assets, Plaintiffs moved for the modification of the writ of attachment against Enrique Pimienta in Case No. 02-04-02508-CV, deleting the images as an asset subject to the writ of attachment against Enrique Pimienta, and then declared that the images actually were owned by the defaulted defendants.

Subsequently to the seizure of the images and the default judgment against Amper parties, the Plaintiffs sought to dispose of the images through post-judgment execution and sale.

There is a controversy based on the Plaintiffs' actions as to whom the rightful owner of the images is; i.e., Enrique Pimienta or any of the defaulted defendants. Meanwhile, Enrique Pimienta has pending before this Court, an adversary against Plaintiff's counsel for violating the automatic stay for modifying the writ of attachment against Enrique Pimienta under Adversary No. 05-03307 pending before this Court.

In the hearing on the Plaintiff's motion to lift stay to proceed against Enrique Pimienta in the Montgomery County case, counsel for the Plaintiffs agreed not to dispose of the images until the ownership disputes were resolved.

Meanwhile, W. Steve Smith, Trustee on behalf of the IFS entities and Plaintiffs' counsel in the Montgomery County cases, have entered into a Settlement Agreement which will be heard by the Court on November 7, 2005 at 10:00 a.m. The Settlement Agreement proposes the IFS Trustee to become the legal owner of any of the Amper claims subject to the Turnover Order, in exchange for W. Steven Smith, Trustee dismissing all adversary proceedings with prejudice against the Socchi parties (adversary nos. 04-03785, 04-03806, 04-03822) and Jacuzzi (adversary

no. 04-03795), and will dismiss adversary no. 04-03795 in exchange for four percent (4%) of the net recovery by the Socchi Plaintiffs from the sales(s), if any, of the images of the Lady of Guadalupe.

W. Steve Smith, Trustee, has entered into this agreement as a result of the assistance of Jacuzzi, and Reiser. Socchi, Mari and Jacuzzi agree to cooperate and reasonably assist the Trustee in the other adversary proceeding filed by the Trustee and in any other collection efforts. It appears that Jacuzzi is not a judgment creditor in the Montgomery County case, and it is questionable why he is included in W. Steve Smith, Trustee's settlement agreement, and his adversary case will be dismissed with prejudice if the Court grants the motion to compromise, apparently for no consideration. Further, the claims that W. Steve Smith, Trustee is willing to dismiss with prejudice against the Socchi parties and Jacuzzi are probably worth in excess of millions of dollars. Four (4%) of the resale of the images is probably only about \$8,000, if they find a willing buyer, and if the ownership is determined by the Court to be owned by the Amper judgment debtors. The value of the default judgment which is also being assigned to the Trustee is unknown, although on information and belief is uncollectible or claims raised may not have merit.

Until the ownership dispute pertaining to the images is resolved, and the assignment of the Amper default judgment is valued, the motion to compromise must be denied. Further, the granting of the motion based on the potential recovery of the images at approximately \$8,000, and an unknown value of the default judgment, versus a potential judgment against the Socchi parties and Jacuzzi (estimated to be in millions of dollars), could result in a substantial monetary loss for the Trustee. Therefore, the agreement has to be scrutinized and questioned extensively

by the Court to determine the hidden agenda between the parties in urging the motion to compromise controversy, when on its face, it does not appear to be in the best interest of the Estates or its creditors.

If the ownership of the images is eventually determined to belong to Enrique Pimienta, his Chapter 7 Trustee, Rodney Tow, would be entitled to seize and sell the images for the benefit of Enrique Pimienta's bankruptcy estate. If the ownership of the images is eventually determined to belong to the Socchi parties, the Court must question to lack of proper consideration by W. Steve Smith, Trustee, in forfeiting his claims against the Socchi parties and Jacuzzi, for probably no more than \$8,000 versus millions of dollars.

WHEREFORE, premises considered, the Trustee's Motion for Authority to Compromise with Gianluigi Socchi, Rodolfo Reiser, Giorgio Mari and John Bruno Jacuzzi Rainieri, must be denied as not in the best interest of the IFS estates, and its creditors, since the Amper judgment and claims have not been valued, as well as because until ownership of the images is determined, as the loss to the Enrique Pimienta bankruptcy estate could cause substantially less recovery in that case by the Chapter 7 trustee.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of foregoing was electronically mailed or mailed by first class mail, postage prepaid, or faxed to the following on the 28th day of October, 2005:

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